

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL FORUM:
VIZIANAGARAM.

(UNDER THE CONSUMER PROTECTION ACT, 1986)

PRESENT:- 1) SRI P.JAGANNADHA RAO, M.COM., B.L., PRESIDENT.

2) SRI SMT P.RUKMINI, B.A., B.L., MEMBER.

*3) SRI G.APPALA NAIDU, M.Com., M.B.A., P.G.D.C.S.,
B.L., P.G.D.M.V.O., MEMBER.*

MONDAY, THE 27TH DAY OF DECEMBER, 2010.

C.C.NO:118/2010

Between:

Barla Venkata Rao

S/o late Krishnam Naidu

12/126 Chembulivari Veedhi,

Jami (Post) (Mandal),

Vizianagaram District.

..... Complainant

And

The Public Information Officer (RTI Act 2005)

And Tahsildar,

Vizianagaram.

..... Opposite party

This complaint is coming on for final hearing before us in the presence of Sri V. Ramana Advocate for petitioner and opposite party called absent, remained exparte and having stood over for consideration, the Forum made the following:-

O R D E R

This is a complaint filed under Section-12 of Consumer Protection Act praying this forum to pay Rs.60,000/- towards compensation for the loss sustained by the complainant in not furnishing the information regarding Group Insurance, in the interests of justice.

Opposite party called absent. No representation. Remained exparte. Heard complainant's learned counsel. Exhibits A.1 to A.2 documents were marked. On perusal of the entire material on record, we are satisfied that the opposite party not furnished the information as prayed for by the complainant and when the notice was served on the opposite party, he remained exparte that clearly shows the contentions of the complainant is supported by the opposite party. If really there is untenable ground to deny the claim of the complainant, the opposite party ought to have contested the matter, that clearly shows that the opposite party supporting the case of the complainant.

In these circumstances, we are satisfied that the claim of the complainant is established. The opposite party is directed to supply information as requested by the complainant within 7 days and

the complainant is directed to inform the opposite party in writing under proper acknowledgment. As the opposite party without any reasonable excuse, fails to give information, it amounts to deficiency of service as per Revision Petition No:1975 of 2005 of Karnataka State Commission. The complainant paid Rs.20/- and applied for information. The opposite party received the same, but fails to furnish information, in spite of direction from RDO. As such, the act of the opposite party amounts to deficiency of service. As such compensation of Rs.2,000/- is awarded as per AIR 1994 SC 787.

As per AIR 1994 SC 787 equivalent to 1993 (III) CPJ, Page-7 para-18 in Development Authority Vs M.K. Gupta. PARA-18: *"Today the issue thus is not only of award of compensation, but who should bear the burden. The concept of authority and power exercised by public functionaries has many dimensions. It has undergone tremendous change with passage of time and change in socio-economic outlook. The authority empowered to function under a Statute while exercising power discharge public duty. It has to act to sub-serve general welfare and common good. In discharging this duty honestly and bonafide loss may accrue to any person. And he may claim compensation which may in circumstances be payable. But where the duty is performed capriciously or the exercise of power results in harassment and agony then the responsibility to pay the loss determined should be whose? In a modern society no authority can arrogate to itself the power to act in a manner which is arbitrary. It is unfortunate that matters which require immediate attention linger on and the man in the street is made to run from one end to other with no result. The culture of window clearance appears to be totally dead. Even in ordinary matters a common man who has neither the political backing nor the financial strength to match the inaction in public oriented departments gets frustrated and it erodes the credibility in the system. Public administration, no doubt involves a vast amount of administrative discretion which shields the action of administrative authority. But where it is found that exercise of discretion was malafide and the complainant is entitled to compensation for mental and physical harassment then the officer can no more claim to be under protective cover. When a citizen seeks to recover compensation from a public authority in respect of injuries suffered by him for capricious exercise of power and the National Commission finds it duly proved then it has a statutory obligation to award the same. It was never more necessary than today when even social obligations are regulated by grant of statutory powers. The test of permissive form of grant are over. It is no imperative and implicit in the exercise of power that it should be for the sake of society. When the court directs payment of damages or compensation against the state the ultimate sufferer is the common man. It is the tax payers' money which is paid for inaction of those who are entrusted under the act to discharge their duties in accordance with law. It is therefore, necessary that the commission when it is satisfied that a complainant is entitled to compensation for harassment or*

mental agony or oppression, which finding of course should be recorded carefully on material and convincing circumstances and not lightly, then it should further direct the department concerned to pay the amount to the complainant from the public fund immediately, but to recover the same from those who are found responsible for such unpardonable behaviour by dividing it proportionately where there are more than one functionaries”.

In the result, the complaint is allowed, directing the opposite party to furnish information within 7 days and the complainant is directed to inform the same to the opposite party. The opposite party is further directed to pay compensation of Rs.2,000/- payable by the MRO i.e., opposite party personally, **as per AIR 1994 SC 787 Para-18** and this complaint is allowed on costs of Rs.1,000/-. Advocate fee is fixed at Rs.500/- payable by the opposite party personally in view of the above judgment.

Dictated to the Steno, transcribed by her, corrected by me and pronounced by us in the open Forum, this the 27th day of December, 2010.

Member

Member

President.

APPENDIX OF EVIDENCE

WITNESSES EXAMINED

For complainant:-

NIL.

For opposite party:-

NIL.

DOCUMENTS MARKED

For complainant:-

1. Ex.A.1 Application filed under Section-6(1) of RTI Act filed by the complainant to the opposite party.
2. Ex.A.2 Acknowledgement from opposite party.

For opposite parties:

NIL

President